

## **REMARKS**

### **I. Status of the Application and Claims**

With entry of this Amendment, claims 35-59 remain pending in the application. Applicants' acknowledge that claims 35-58 have been renumbered 35-59 under 37 C.F.R. § 1.126 in view of the previous presentation of two claims numbered 50. The proposed Amendment presents the claims as renumbered by the Office. In addition, claims 56 and 57 have been amended to correct their dependency from renumbered claims.

Applicants gratefully acknowledge the Office's indication that claims 35-50, 53, 58 and 59 are allowed. Office Action, page 4. Claims 51, 52 and 54-57 have been rejected by the Office as indefinite under 35 U.S.C. § 112, second paragraph.

Claims 54, 55, and 56 have been rewritten by Applicants solely to more clearly recite their invention, as requested by the Office. The amendments do not enter new matter into the application and do not require the Office to consider any new issues.

### **II. Claims 51, 52 and 54-57 Are Definite**

Claims 51, 52 and 54-57 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter Applicants regard as their invention. Office action, page 3. The Office bases the rejection on numerous grounds, which appear on pages 3-4 of the Office action.

The Office alleges that the recitation of "and/or" in claim 51 renders the claim indefinite and suggests that the claim be amended to recite Markush language. Office Action, page 3. Applicants submit the skilled artisan would understand the claim as

written encompasses the recited hydrocarbon species either alone, or in combination with one or more of the other recited hydrocarbon species. There is, therefore, nothing indefinite about claim 51. Markush claim language is not necessary when the scope and clarity of the claim is unambiguous, as here. See M.P.E.P. 2173.05(h).

The rejection of claim 52 is based on the recitation "such that the molecular weight of the polymer chain is between 100 and 15 000" because the units of molecular weight allegedly are not clear. Office action, page 3. As previously noted, when a value for a molecular weight does not indicate a unit, the artisan understands that the default unit is Daltons. Daltons is the standard unit for molecular weight, and it is clear from context of the structure that the unit is Daltons. In view of the well-known identity of the unit of molecular weight, Applicants respectfully submit that claim 52 is definite.

Claims 54 and 55 are rejected as allegedly indefinite for the inclusion of the term "in" in the various steps of the methods. Office Action, page 3. The Office considers the word superfluous and requests its deletion. *Id.* Applicants have amended the claims as requested. Applicants note that this amendment in no way alters the scope of the claims, but rather is strictly a cosmetic amendment to improve the readability of the claims.

The Office also rejects claims 54 and 55 because, according to the Office, there is insufficient antecedent basis in each claim for the "deprotecting" step. Office Action, page 3. Applicants respectfully disagree. In both claim 54 and 55, the preceding step involves a blocked thiol function on a mercaptoamino residue. There is, therefore, a mercapto function available for deprotection in each of claims 54 and 55.

Claim 55 is also rejected as incomplete for failing to crosslink at the end of the process. Office Action, page 3. Pages 20-21 of the specification, however, disclose that the oxidation step recited in step (c') produces disulfide bridges which crosslink the collagenic peptide. The claim thus does result in a crosslink at the end of the process.

The Office rejects claim 56 as indefinite because, according to the Office, it is unclear how many is “some” in the recitation “at least some.” Office Action, page 4. Applicants have amended claim 56 to recite “at least a fraction of.” This language is a better translation of the phrase “au moins une partie de” found in the French language original specification, for example, on page 13 of WO 00/52052. In addition, it parallels the language of claim 57, which the Office has already considered. Finally, “at least a fraction of” more clearly indicates that any number between one and all of the free amine functions of the collagenic chain can be acylated during the process of claim 56. Applicants respectfully submit that this claim language is as clear as the subject matter permits, which is all the law requires. See *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986).

The Office alleges claims 56 and 57 are rejected as indefinite in the recitation “in carrying” because “in” is superfluous. Office Action, page 4. The Office suggests “in” be deleted from the phrase. *Id.* Applicants respectfully decline to delete “in” because removal of “in” in this particular instance would make the claim less clear. Applicants submit that the language used is definite and unambiguous, and that amendment of claims 56 and 57 is therefore unnecessary.

In view of the amendments and remarks herein, Applicants request reconsideration and withdrawal of the rejection of claims 51, 52 and 54-57.

## CONCLUSION

Applicants respectfully request entry of this Amendment under 37 C.F.R. § 1.116. They submit that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Office. Further, Applicants submit that the entry of the amendment would place claims 35-59 (as renumbered) in condition for allowance, or would place the application in better form for appeal, should the Office dispute the patentability of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By:   
Steven P. O'Connor  
Reg. No. 41,225  
(571) 203-2718